

JUL 31 2009

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

GENERAL CROOK; et al.,

Plaintiffs - Appellants,

v.

UNIVERSAL SONGS OF POLYGRAM,  
aka Polygram Records; et al.,

Defendants - Appellees.

No. 07-16479

D.C. No. CV-03-00047-PMP

MEMORANDUM \*

Appeal from the United States District Court  
for the District of Nevada  
Philip M. Pro, District Judge, Presiding

Submitted July 29, 2009 \*\*

Before: WALLACE, LEAVY, and HAWKINS, Circuit Judges.

General Crook appeals pro se from the district court's judgment for  
defendant Universal Songs Polygram ("Universal Songs") after a bench trial on

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\* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

\*\* The panel unanimously finds this case suitable for decision without oral argument, and therefore denies appellant's request. *See* Fed. R. App. P. 34(a)(2).

Crook's breach of contract claim. Crook also appeals from various orders of the district court, including denials of motions to recuse and for a jury trial. We have jurisdiction pursuant to 28 U.S.C. § 1291. Following a bench trial, we review findings of fact for clear error and conclusions of law de novo. *Navajo Nation v. U.S. Forest Serv.*, 535 F.3d 1058, 1067 (9th Cir. 2008) (en banc).

The district court's factual findings undergirding its ruling that Universal Songs did not breach its contract with Crook are not clearly erroneous. There is evidence in the record that Crook signed a license agreement with Universal Song in 1977, and that Universal Songs sent royalty payments to Crook that complied with the terms of the 1977 agreement. *See Husain v. Olympic Airways*, 316 F.3d 829, 840 (9th Cir. 2002) ("The district court, as the trier of fact in this matter, was in a superior position to appraise and weigh the evidence, and its determination regarding the credibility of witnesses is entitled to special deference.").

The district court did not abuse its discretion when it denied the untimely motion for a jury trial because Crook did not demonstrate that his failure to request a jury trial in a timely manner was anything more than inadvertence. *See Zivkovic v. S. Cal. Edison Co.*, 302 F.3d 1080, 1086-87 (9th Cir. 2002) (providing standard of review and stating: "Zivkovic argues that his untimely demand for a jury trial should be excused because he filed his complaint pro se and was unaware of the

requirements of Rule 38(b). However, Zivkovic's good faith mistake as to the deadline for demanding a jury trial establishes no more than inadvertence, which is not a sufficient basis to grant relief from an untimely jury demand."").

The district court did not abuse its discretion when it denied the motion to recuse because Crook's motion failed to identify an extrajudicial source of bias.

*See United States v. Martin*, 278 F.3d 988, 1005 (9th Cir. 2002) (stating standard of review and affirming denial of motion to recuse where movant failed to show that there existed any extrajudicial source of bias).

Crook's remaining contentions lack merit.

**AFFIRMED.**